



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Parts 19 and 20

RIN 2900-AQ26

VA Claims and Appeals Modernization

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendment.

SUMMARY: On January 18, 2019, the Department of Veterans Affairs (VA) revised its regulations regarding appeals and Rules of Practice of the Board of Veterans' Appeals (Board). On February 15, 2019, VA published a correction to that rule. This correction addresses technical errors in the final regulations.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Rachel Sauter, Counsel for Legislation, Regulations, and Policy, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 632-5555 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA published a final rule, VA Claims and Appeals Modernization, on January 18, 2019, in the Federal Register at 84 FR 138, and a correction to the final rule that published February 15, 2019, in the Federal Register at 84 FR 4336.

This document augments the corrections which were published in the Federal Register on February 15, 2019 (84 FR 4336).

List of Subjects in 38 CFR Parts 19 and 20

Administrative practice and procedure, Claims, Veterans.

Accordingly, 38 CFR parts 19 and 20 are amended by making the following correcting amendments:

PART 19—BOARD OF VETERANS' APPEALS: LEGACY APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§§ 19.15 through 19.19 [Reserved]

2. Add reserved §§ 19.15 through 19.19 to subpart A.

§ 19.30 [Amended]

3. In § 19.30, amend paragraph (b) by removing “and” before “a VA Form 9” and by removing the comma after “Appeal to Board of Veterans’ Appeals” and adding a semicolon in its place.

4. In § 19.51, revise the section heading and the authority citation at the end of the section to read as follows:

§ 19.51 Place of filing Notice of Disagreement and Substantive Appeal.

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(Authority: 38 U.S.C. 7105(b)(1), (d)(3) (2016))

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

5. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

6. In § 20.104, revise the section heading to read as follows:

§ 20.104 Rule 104. Jurisdiction of the Board.

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§ 20.303 [Amended]

7. In § 20.303, amend paragraph (b)(2) by removing the comma after “Rule 202”.

§ 20.405 [Amended]

8. In § 20.405, amend the first sentence by removing “30 day period” and adding “30-day period” in its place.

9. In § 20.407, revise the section heading to read as follows:

§ 20.407 Rule 407. Favorable findings are not binding in contested claims.

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§ 20.502 [Amended]

10. In § 20.502, remove the first occurrence of “38 U.S.C.” in the authority citation following paragraph (c).

11. Revise § 20.707 to read as follows:

§ 20.707 Rule 707. Prehearing conference.

An appellant’s authorized representative may request a prehearing conference with the presiding Member of a hearing to clarify the issues to be considered at a hearing on appeal, obtain rulings on the admissibility of evidence, develop stipulations of fact, establish the length of argument which will be permitted, or take other steps which will make the hearing itself more efficient and productive.

(Authority: 38 U.S.C. 7102, 7107)

12. In § 20.711, revise the section heading to read as follows:

§ 20.711 Rule 711. Hearings in simultaneously contested claims.

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13. Revise § 20.713 to read as follows:

§ 20.713 Rule 713. Recording of hearing by appellant or representative.

An appellant or representative may record the hearing with his or her own equipment. Filming, videotaping or televising the hearing may only be authorized when prior written consent is obtained from all appellants and contesting claimants, if any, and made a matter of record. In no event will such additional equipment be used if it interferes with the conduct of the hearing or the official recording apparatus. In all such situations, advance arrangements must be made with the Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

(Authority: 38 U.S.C. 7102, 7107)

§ 20.800 [Amended]

14. In § 20.800, in the first sentence of paragraph (c)(3), remove the words “member” and “members” and add in their place “Member” and “Members”, respectively, and in paragraph (e), remove “Rule 803” and add “Rule 802” in its place.

15. In § 20.904, revise the section heading to read as follows:

§ 20.904 Rule 904. Remand or referral for further action.

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16. In § 20.906, revise paragraph (b) to read as follows:

§ 20.906 Rule 906. Medical opinions and opinions of the General Counsel.

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(b) *Joint Pathology Center opinions.* The Board may refer pathologic material to the Joint Pathology Center and request an opinion based on that material.

(Authority: 38 U.S.C. 7109(a))

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§ 20.1405 [Amended]

17. In § 20.1405, in paragraph (c)(2), remove “Planning and Analysis (014)”.

Approved: July 11, 2019.

Jeffrey M. Martin,
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